

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

WILLIE HARRIS #292201,

Plaintiff,

Hon. Janet T. Neff

v.

Case No. 1:13-CV-543

UNKNOWN BALL, et al.,

Defendants.

REPORT AND RECOMMENDATION

This matter is before the Court on Plaintiff's Motion for Preliminary Injunction. (Dkt. #152). Pursuant to 28 U.S.C. § 636(b)(1)(B), the undersigned recommends that Plaintiff's motion be **denied**.

Injunctive relief is "an extraordinary remedy which should be granted only if . . .the circumstances clearly demand it." *Overstreet v. Lexington-Fayette Urban County Gov't*, 305 F.3d 566, 573 (6th Cir. 2002). To obtain injunctive relief, Plaintiff must first show that he "is being threatened by some injury for which he has no adequate legal remedy." *Dana Corp. v. Celotex Asbestos Settlement Trust*, 251 F.3d 1107, 1118 (6th Cir. 2001). If such is the case, the court must then examine several factors: (1) whether the movant is likely to prevail on the merits, (2) whether the movant would suffer irreparable injury if the court does not grant the injunction, (3) whether a preliminary injunction would cause substantial harm to others, and (4) whether a preliminary injunction would be in the public interest. *See Samuel v. Herrick Memorial Hospital*, 201 F.3d 830, 833 (6th Cir. 2000).

Rather than prerequisites which must each be satisfied, the relevant factors, none of which are dispositive, are competing considerations to be weighed and balanced. *See Six Clinics*

Holding Corp., II v. Cafcomp Systems, Inc., 119 F.3d 393, 400 (6th Cir. 1997); *Michigan Bell Telephone Co. v. MFS Intelenet of Michigan, Inc.*, 16 F.Supp.2d 828, 831 (W.D.Mich. 1998). Ultimately, the decision whether to grant injunctive relief lies within the court's discretion. See *Dana Corp.*, 251 F.3d at 1118 (the "most significant single component" in the decision whether to grant injunctive relief "is the court's discretion") (citations omitted).

Plaintiff begins his motion by stating, "Please don't take this the wrong way, however I'm going to murder/kill one of (ICF) prison employees." Alleging that he has been repeatedly subjected to various forms of maltreatment in retaliation for filing grievances, Plaintiff seeks an order directing that he be transferred to a different correctional facility. Plaintiff further states that he "has made a vow to revenge his rights" and "if I'm given the chance to kill one of (ICF) staff members it will be done definitely." The Court recommends that Plaintiff's motion be denied for several reasons. First, Plaintiff has failed to demonstrate that his allegations of retaliation and mistreatment have any merit. Plaintiff has also failed to establish that his legal remedies are insufficient to remedy any injury he might have suffered as a result of Defendants' alleged conduct. Finally, the public interest is not served by judicial interference in the management of a correctional institution in the absence of evidence justifying such. Accordingly, the undersigned recommends that Plaintiff's motion be denied.

The Court further notes that Plaintiff's inclusion in his motion of direct threats of death and violence to prison officials is offensive and improper. It is further recommended, therefore, that Plaintiff be ordered to abandon this practice and that if Plaintiff fails to comply with such order that this action be dismissed with prejudice pursuant to Federal Rule of Civil Procedure 41.

CONCLUSION

For the reasons articulated herein, the undersigned recommends that Plaintiff's Motion for Preliminary Injunction, (dkt. #152), be **denied**.

OBJECTIONS to this Report and Recommendation must be filed with the Clerk of Court within fourteen (14) days of the date of service of this notice. 28 U.S.C. § 636(b)(1)(C). Failure to file objections within the specified time waives the right to appeal the District Court's order. *See Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir.1981).

Respectfully submitted,

Date: November 16, 2015

/s/ Ellen S. Carmody
ELLEN S. CARMODY
United States Magistrate Judge